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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,355	01/05/2001	Kang-Yun Moon	0630-1213P	3314

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EXAMINER	
KOSTAK, VICTOR R	
ART UNIT	**PAPER NUMBER**
2614	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/754,355	·MOON, KANG-YUN	
	Examiner	Art Unit	
	Victor R. Kostak	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *36 and 37* is/are allowed.

6)☒ Claim(s) *1-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. Applicant is again informed that the last page of the substitute specification received on 08/14/03 is missing.

2. Applicant's arguments filed on 06/07/05 have been fully considered but they are not persuasive. The previous rejection accordingly still applies and is repeated from the last Office action presented below.

The gist of applicant's arguments is that the references combined to reject applicant's claims do not teach the composite of applicant's invention so defined by his claims.

That is not the case.

Applicant is first incorrect in stating that the examiner failed to address the limitation of the facilitation of channel identification. Because that feature is in fact the inherent purpose of displaying a channel logo, that feature is inherently met. The examiner provided to the applicant the definition of a logo. All logos, including those of broadcast companies, are designed for that exact purpose. Applicant does nothing more than spell out the definition of a word after reciting that word. The examiner's providing of the definition of "logo" corroborates that.

Applicant's additional argument alleging that Grossman is devoid of suggesting display of something that facilitates channel identification is also not valid. Spelling out once again what Grossman allows: *"**any information** of commercial value, such as a corporate logo or trademark"* (col. 3 lines 35-37). Grossman therefore fails to disallow channel logos, which channels are operated by broadcasting companies. Grossman displays his logos during the

channel zapping period, which is of limited duration. Logos by definition facilitate identification of the product they represent.

More than that, Grossman was combined with Tsuria, who explicitly says that his system receives plural advertisement data ***associated with separate channels*** (col. 3 lines 66-67), which clearly declares that respective advertisements correspond to respective channels. The viewer is presented with an advertisement associated with the new (channel) selection (col. 4 lines 10-15), also pointed out in a previous action. And as taught by Grossman, advertisements can be in logo form, which of course are designed for ready identification of that channel.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In the instant case, Grossman expressly discloses logos, and in combination with that taught by Tsuria, broadcast company logos would accordingly and naturally readily inform the viewer of the currently tuned channel. The rejection, once again repeated from a previous action, clearly provides justifiable rationale in meeting applicant's claims.

Furthermore, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some

teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, ready identification of whatever data to be displayed is essential since the time it takes to tune of one channel to another is very limited.

Addressing applicant's arguments regarding the examiner's statements on the last Advisory Action, those statements were made to show what information can be derived from the combination of Grossman and Tsuria. As explained to applicant previously, Tsuria receives plural advertisement data *associated with separate channels* (col. 3 lines 66-67). The NBC peacock is an advertisement in the form of a logo, and falls in the category of stations. Of course, since Grossman allows for "any information of commercial value", and Tsuria displays "plural advertisement data associated with separate channels", then *channel* logos (would have accordingly been obvious, as so explicitly allowed by Tsuria combined with Grossman.

It is further noted that earlier in prosecution, applicant argued that Gries could not be used to reject his claims because he discloses display of the upcoming *channel* (page 7 of the response data 04/26/04). This argument seems contrary to what applicant is now arguing.

Applicant is reminded yet additionally of the Laskey reference made of record in a previous communication, which discloses display of a channel icon corresponding to the currently switched-to channel.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 16-35 again stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuria (of record) in view of Grossman (also of record).

Tsuria (Fig. 1) discloses a digital television system (col. 3 lines 1-4) that includes a central processor 28 for receiving plural advertisement data associated with separate channels (col. 3 lines 66-67) downloaded from the cable headend from respective providers and stored in memory 30. TV unit 14 displays the advertisement data prompted by a user when a channel change is made (col. 2 lines 64-67), wherein the processor retrieves the message data pertaining to the corresponding newly-selected channel (col. 2 lines 1-4; col. 3 line 66 – col. 4 line 6 and lines 10-15), during the gap between the old channel and the new channel.

Although Tsuria does not specify the content of the channel-related advertisements (he does mention slide-type with voice accompaniment: col. 3 lines 54-57), it would have been clearly obvious to present any form of advertisement associated with the respective channels, such as the channel broadcaster identifier or future program titles or image data shown on that channel. One of ordinary skill in the art is not disallowed to consider any and all types of channel-associated advertisements because Tsuria does not specify nor exclude any type. Tsuria does however specify the presentation of data during the zapping period as being ads associated per respective channel.

Furthermore, in view of the very similar type of system disclosed by Grossman (discussed in previous communications), who allows for "any information of commercial value, such as a corporate logo (or) a trademark" (col. 3 lines 35-37) to be displayed during the zapping

period, it would have been further obvious to present corporate logos or trademarks of any company. Like Tsuria, the ads are downloaded from the headend and stored (memories 40, 44) for appropriately timed retrieval. One of ordinary skill in the art is not disallowed to consider television broadcasters as belonging to the group of corporations. One of ordinary skill in the art is instead very well aware of such broadcasters being associated with respective channels, readily identifiable by their corporate logos (e.g. NBC peacock, CBS eye).

Therefore, in view of the explicit disclosure of Tsuria regarding the display of channel-related advertisements during zapping periods specifically pertaining to the new channel, and in view of the very similar system of Grossman who gives clear and encompassing allowance of what to display during channel changing periods, it would accordingly have been obvious to display the broadcasters' logos during zapping. The display of the logo pertaining to that newly-selected channel would naturally enable the viewer to readily identify that channel. Therefore, the limitations recited in claims 16 and 29 have been met.

As for claim 23, A/V signal processing is contained within tuner 19.

As for claims 17, 24 and 30, the ads of both Tsuria and Grossman are displayed on-screen between the next and previous channels (col. 4 lines 1-5 of Tsuria).

Regarding claims 18, 25 and 31, only the ad is displayed during the gap (col. 3 line 67 – col. 4 line 4), and in icon form as modified by Grossman.

As for claims 19, 26 and 32, the plural ads are stored in memory 30 of Tsuria (in memories 40 or 44 of Grossman), and each ad is recalled or looked up individually from the database according to the channel indexing. The retrieval therefore is in the form of a look-up table.

As for claims 20, 27 and 33, the icon data would accordingly represent the corporate logos pertaining to each respective channel.

Considering claims 21 and 34, the program associated with the selected channel is eventually displayed after termination of the zapping period.

As for claims 22, 28 and 35, Tsuria does not disclose the component hardware in specific detail pertaining to the standard A/V signal processing, since he focuses on the advertisement retrieval feature. It would nonetheless have been clearly obvious to include typical program memory (besides the ad memories 30, and 40 and 44 of Grossman) since the receiver must be responsive to the interfacing with the user and to carry out respective processing operations, such as by accessing ROM 40 for control programming as disclosed by Grossman (col. 6 lines 15-17 and lines 33-40).

4. Applicant is again reminded that Laskey (previously applied) teaches display of a channel hat or icon related to the currently switched to channel (col. 6 lines 28-35).

5. Claims 36 and 37 appear allowable over the prior art.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (571) 272-7348. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.

V. R. K.

Victor R. Kostak
Primary Examiner
Art Unit 2614

VRK